

Second Regular Session 115th General Assembly (2008)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2007 Regular Session of the General Assembly.

## HOUSE ENROLLED ACT No. 1124

AN ACT to amend the Indiana Code concerning public safety.

*Be it enacted by the General Assembly of the State of Indiana:*

SECTION 1. IC 36-8-10-16, AS AMENDED BY P.L.97-2005, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 16. (a) The department may establish and operate a dependent's pension benefit for the payment of pensions to dependent parents, surviving spouses, and dependent children under eighteen (18) years of age of former employee beneficiaries. The department may provide these benefits by the creation of a reserve account, by obtaining appropriate insurance coverage, or both. However, the department may not establish or modify a dependent's pension benefit after June 30, 1989, without the approval of the county fiscal body which shall not reduce or diminish any dependent's pension benefits that were in effect on January 1, 1989.

(b) This subsection applies to survivors of employee beneficiaries who:

- (1) died before January 1, 1990; and
- (2) were covered by a benefit plan established under this section.

The maximum monthly pension payable to dependent parents or surviving spouses may not exceed two hundred dollars (\$200) per month during the parent's or the spouse's lifetime if the spouse did not remarry before September 1, 1984. If the surviving spouse remarried before September 1, 1984, benefits ceased on the date of remarriage. The maximum monthly pension payable to dependent children is thirty

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dollars (\$30) per child and ceases with the last payment before attaining eighteen (18) years of age.

(c) This subsection applies to survivors of employee beneficiaries who:

(1) died after December 31, 1989; and

(2) were covered by a benefit plan established under this section.

The monthly pension payable to dependent parents or surviving spouses must be not less than two hundred dollars (\$200) for each month during the parent's or the spouse's lifetime. The monthly pension payable to each dependent child must be not less than thirty dollars (\$30) for each child and ceases with the last payment before attaining eighteen (18) years of age.

(d) The county fiscal body may by ordinance provide an increase in the monthly pension of survivors of employee beneficiaries who die before January 1, 1990. However, the monthly pension that is provided under this subsection may not exceed the monthly pension that is provided to survivors whose monthly pensions are determined under subsection (c).

(e) In order to be eligible for a benefit under this section, the surviving spouse of an employee beneficiary who dies after August 31, 1984, must have been married to the employee beneficiary at the time of the employee's retirement or death in service.

**(f) In addition to, or instead of, a modification of a surviving spouse's monthly pension under this section, a county fiscal body may approve a cost of living payment to a surviving spouse under section 23 of this chapter.**

SECTION 2. IC 36-8-10-23, AS AMENDED BY P.L.99-2007, SECTION 222, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 23. (a) This section applies to a county that adopts the provisions of this section by an ordinance of the county fiscal body.

(b) The county fiscal body may provide for:

(1) an annual cost of living payment to employee beneficiaries who are retired or have a disability, or both; or

(2) an ad hoc cost of living payment to employee beneficiaries who are retired or have a disability, or both. The amount of the ad hoc cost of living payment under this subdivision is not an increase in the base pension benefit calculated under section 12 or 12.1 of this chapter.

**(c) In addition to, or instead of, a modification of a surviving spouse's monthly pension under section 16 of this chapter, the county fiscal body may provide for:**

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**(1) an annual cost of living payment to a surviving spouse; or**

**(2) an ad hoc cost of living payment to a surviving spouse.**

~~(c)~~ **(d)** In the case of an annual cost of living payment granted under subsection (b)(1) **or (c)(1)**, the amount of the cost of living payment shall be determined each year by the pension engineers under this subsection. The pension engineers shall determine if there has been an increase in the Consumer Price Index (United States city average) prepared by the United States Department of Labor by comparing the arithmetic mean of the Consumer Price Index for January, February, and March of the payment year with the same three (3) month period of the preceding year. If there has been an increase, the increase shall be stated as a percentage of the arithmetic mean for the three (3) month period for the year preceding the payment year (the adjustment percentage). The adjustment percentage shall be rounded to the nearest one-tenth of one percent (0.1%) and may not exceed three percent (3%).

~~(d)~~ **(e)** In the case of a cost of living payment granted under subsection (b)(2) **or (c)(2)**, the amount of the cost of living payment shall be determined by the county fiscal body and may be:

- (1) a percentage increase, not to exceed the percentage determined under subsection ~~(c)~~; **(d)**; or
- (2) a fixed dollar amount.

~~(e)~~ **(f)** A payment authorized under this section shall be made to each:

- (1) authorized employee beneficiary who is retired or has a disability; or**
- (2) surviving spouse;**

and may be made annually, semiannually, quarterly, or monthly.

~~(f)~~ **(g)** A cost of living payment granted under this section shall be funded by a direct appropriation or by maintaining a fully funded actuarially sound trust fund.

~~(g)~~ **(h)** A cost of living payment granted under this section is applicable only to **the following**:

- (1) Employee beneficiaries who:**
  - ~~(1)~~ **(A)** are retired or have a disability; and
  - ~~(2)~~ **(B)** are at least fifty-five (55) years of age.

**(2) A surviving spouse.**

~~(h)~~ **(i)** No provision of this section shall be made part of any ordinance or agreement concerning collective bargaining. No provision of this section shall be subject to bargaining under any statute, ordinance, or agreement.

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Speaker of the House of Representatives

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President of the Senate

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President Pro Tempore

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Governor of the State of Indiana

Date: \_\_\_\_\_ Time: \_\_\_\_\_

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